

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WARTSILA TECHNOLOGY OY AB, et
al.,

Movants,

v.

ALICIA M. HAWKINS,

Respondent.

Case No. [18-mc-80001-JCS](#)

**ORDER GRANTING MOTION TO
TRANSFER TO THE UNITED STATES
DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH
CAROLINA**

Re: Dkt. No. 5

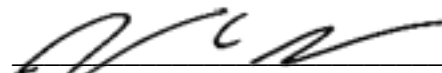
On January 2, 2018, Wärstilä Technology Oy Ab and Wartsila Defense, Inc. (together, “Wartsila”) filed a Motion to Show Cause for Failure to Comply with a Subpoena for Deposition Testimony in a Civil Action and for Shortened Briefing Schedule (“Subpoena Motion”) pursuant to Rule 45(g) of the Federal Rules of Civil Procedure. *See* Subpoena Motion (dkt. 1). In the Subpoena Motion, Wartsila seeks to enforce a third-party subpoena to compel United States Coast Guard employee Alicia M. Hawkins to appear for a deposition in advance of a February 1, 2018 discovery deadline in a pending civil action in the United States District Court for the Western District of North Carolina. *Id.* at 2–3. On January 5, 2018, this Court issued a stipulation and order regarding the briefing schedule for the Subpoena Motion, which required that Hawkins would file a Response on or before January 17, 2018 and that Wartsila would file its Reply on or before January 19, 2018. *See* Stipulation and Order Regarding Briefing Schedule and Hearing Date on Plaintiffs’ Motion to Show Cause (dkt. 4) at 2. On January 9, 2018, Hawkins filed a Motion to Transfer (“Transfer Motion”) the matter to the United States District Court for the Western District of North Carolina pursuant to Federal Rule of Civil Procedure Rule 45(f). *See* Transfer Motion (dkt. 5).

Rule 45(f) states that “[w]hen the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the

1 subpoena consents or if the court finds exceptional circumstances.” Fed. R. Civ. P. 45(f).
2 Hawkins has consented to transfer. *See* Transfer Motion (dkt. 5) at 4. Although Hawkins’s failure
3 to make her preference as the forum for this dispute known earlier in the parties’ negotiations has
4 caused some degree of inefficiency for both the parties and the courts, because the Subpoena
5 Motion ultimately turns on a question of whether certain information is relevant to the merits of a
6 case pending in the United States District Court for the Western District of North Carolina, this
7 Court concludes that Wartsila’s Subpoena Motion would be best decided by the court adjudicating
8 that dispute. And while Wartsila is correct that there is no assurance of the North Carolina court
9 hearing the pending motion on the date currently scheduled, that court has the authority to adjust
10 discovery deadlines if it determines such a change is warranted. For these reasons, Hawkins’s
11 Transfer Motion is GRANTED. Accordingly, the Clerk is instructed to transfer this case to the
12 United States District Court for the Western District of North Carolina, with the suggestion that it
13 be related to or consolidated with case number 5:16-cv-00198-FDW-DSC in that court. The
14 briefing schedule remains in place unless it is altered by the North Carolina court.

15 **IT IS SO ORDERED.**

16 Dated: January 16, 2018

17 
18 _____
19 JOSEPH C. SPERO
20 Chief Magistrate Judge
21
22
23
24
25
26
27
28